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Previous references.

SL 1-11.

Later references

1873-74
-191-

(Mund.)

File No. 2 - 73

Serial Nos. ~~1-11~~

12-13

for transfer

GENERAL AND REVENUE SECRETARIAT.

Serial Nos ~~1-11~~ , 12-13

Major Part B for *Aug 94*

SUBJECT.

Major Part B for

*Inde saw
per*

Memo

JL

~~SR~~
1297

In his letter No. 1135 of 13th May 1898, the President of the Municipal Boards, Hassan District stated that under para 5 of the late Chief Commissioners Proceedings No. $\frac{6369-78}{319}$ of 27th February 1880, carriages and coaches in minor Municipalities were liable to Mohatarfa cart tax, and proposed that the order No. $\frac{18450-8}{27252-92}$ of 1-5-94 passed without reference to the order of 1880, may be cancelled so as to make these conveyances liable to Mohatarfa tax.

(Sl 2 in L7252-92)

(Sl 7 in L7252-92)

2. The Second Councillor, to whom the reference was submitted, passed the following order.

"This matter has already been disposed of altho,"

my view at the time was that Spruiged conveyances were not entitled to be exempted. I adhere to that view, and as pointed out there is an order of Govt. of 1880 which has been cancelled by the order of 1st April 1898. If the Dewan is disposed, he may reverse the order and I would recommend it."

3. An abstract of the orders bearing on the subject is given below. —

(a) That a tax be levied on carts in the possession of all persons other than those whose primary occupation is agriculture and that a uniform rate of Rs 2 per cart be levied on all carts

(b) That under the operation of rule (a) all carts drawn by pairs of bullocks and of the description ordinarily used for carrying loads are chargeable with the prescribed tax, although such may be the

Late Chief Commissioner's
Circular No. 36 of 31.3.71.

Chief Commr's Circular
No. 3 of 27-9-71 (Sl. No. R72454)

3

private property of persons who are not professional merchants or traders.

(C) The tax under other items of Mohatarfa, viz, Shops, Looms, oil mills, and carts will be levied at such rates as are now or may hereafter be fixed for the Province in general, but no exemptions on account of caste or other grounds shall be allowed.

Chief Commr's Pro. No. $\frac{3362-73}{ml 161}$
 of 27-9-79 (para 12) Rev. Manual.

Pro. No. $\frac{6369-76}{319}$ of 27-2-80
 (Sl 25).

(d) Carriages and coaches in the minor municipalities where there is no regular system of taxing carriages, may be taxed as carts.

(e) Municipalities are not authorized to allow exceptions on any cart and tax shall be collected on all carts including those of agriculturists also.

(f) Government are of opinion that agriculturists

No. $\frac{6370-9}{352}$ of 31-1-81.
 (Sl $\frac{2}{a}$ in R7245-92)

who maintain carts for carrying manure and the produce of their lands - should not be taxed simply because they occasionally hire them when they are not required for agricultural purposes. It is only persons who live by hiring their carts that ought to be taxed.

Prov. No. 1293
(monthly)

(g) No Municipality will in future levy cart tax on carts used for carrying water for domestic purposes.

Prov. No. $\frac{13217-26}{252-92}$ of 10-2-94
Sl. 7 Sec B 4 17252-92.

(h) The cart tax was intended to be a profession tax on the calling of carriers and this is borne out by the language used in the Chief Commissioner's general circular No 3 of 27-9-71 issued in explanation of the cart-tax rules. It is stated in the circular that "all carts drawn by pairs of bullocks and of the description -

Prov No $\frac{18450-58}{17252-92}$ of 15/4(86).

and merely used for carrying loads are chargeable with the prescribed tax although such may be the private property of persons who are not professional merchants or traders". It is clear from this that the tax was intended to be levied upon carts employed in carrying trade of the country whether the goods carried belonged to the owners of the carts or not. As Petitioner (Mr. Singla Charn) mail phaeton does not come under the above description, the sum of Rs 8 levied from him (by the Tanjore Municipal Board) will be refunded.

(i) In Municipalities, all carts whether belonging to agriculturists or other persons

P20 No $\frac{24641-58}{R7265-92}$ d/ 25-6-95
sl in 252-92

6
need whether plying for
hire or used for private
purposes only should pay the
tax

(2) In reply to an enquiry
made by the Deputy Com-
missioner of Simla as to
whether Pro of 1/5/94 was
intended to cancel the order
of 27 2-80, in which it was
stated that carriages and
coaches in certain muni-
cipalities, where there was no
system of taxing carriages,
may be taxed as carts, it
was stated that there was
no conflict between the
two orders quoted and that
coaches may be taxed as
carts, if they were employed
in the carrying trade of
the country. In the carts
nor coaches could be taxed
if they were not so employed.

4. In reply to an enquiry
from the Deputy Commissioner
of Hassan, as to whether

pro no $\frac{21072}{27252-92}$ d/7-1-94.

7 Springed carriages come under the category of 'carts' used in Pro No $\frac{24641-50}{R7245-92}$ d/25-6-95, it was stated as follows. —

Pro. No. $\frac{96176-50}{R31377}$ d/1-4-98

Sl no 15 in R7245-92.

"Carts used for carrying loads are alone taxable. The use of a cart and not its constructive arrangements (such as springs or no springs) is the criterion under the Mohatarfa rules as they stand."

A draft Regulation in regard to Mohatarfa tax is under preparation by the Assistant Secretary Mr. Chandrasekhara Iyer and the Huzur Md. Khristador.

It is submitted for consideration whether, pending the passing of such Regulation, any orders are at present necessary on the question

of reversing the order of
1st May 1894 as suggested
by the Deputy Commr.
of Hassan.

-1592

Subd to Secy
Bd. 13/10/98
Sh. 9 12/10/98
Recd. 10

Filed to Secy as decided
by the 2nd in order
on the receipt of the
Hassan Deputy Commr's letter
No 1135 of 13-5-98
C

- 18-10-98
1. I have not the slightest doubt regarding the reasonableness of taxing carriages.
 2. The only doubt is whether such taxation would be legal under the Chohatarfa law(?) as it stands, and whether para 5 of the Chief Commissioner's orders of 27 February 1880 is legal under that law.
 3. If this question can be answered in the affirmative, the Secretary will please bring the matter before Council with a brief note on the question of legality as above.

(initialed) K. S.

Comptd
only

11/5/99.

A note subd. to Secy for approval.
22-5-99.

order on
office note
by 13/11/00
15/11/01

* Circular No. 36-33/1, dated 31-3-1871. Also Circular No. 3, date 27-9-1871. (pp. 124 & 126 of the Revenue Manual).

⊗ Progs. No. 9932-9/Cir. 18, dated 29-11-90. (Sl. No. 5 in Rev. File 245 of 92-93). Also last part of Progs. No. 24641-5/R.F. 245 of 92-93, dated 25-6-93 (sl. No. 12).

⊕ No. 372-73-Unl. 161, dated 27-9-79, para 12. (p. 169 of the Revenue Manual). Also Progs. No. 6370-9/Unl. 352, dated 31-1-81. (Sl. 2/9, in Rev. F. 245-92-93).

× Para 5 of Progs. No. 6360-76/1.312, dated 27-2-80. (p. 177 of Revenue Manual).

9
Note.

Subject. Legality of the Chief Commissioner's Order of 27th February 1880, re: taxation of "carriages and coaches".

The cart tax, as a definite item of Mohatta taxation, owes its origin to an executive order^{*} of the Chief Commissioner issued in 1871, apparently without a reference to the Government of India.

It first confined to "carts drawn by pairs of bullocks and of the description ordinarily used for carrying loads," "in the possession of all persons other than those whose primary occupation is agriculture," the tax was subsequently, that is, in 1890[⊗], interpreted as applying (at a reduced rate) to single bullock carts also.

In order[⊗] of 1879. While recognising the cart tax as in force in municipalities, directed that no exemptions on an amount should be allowed. The effect of this was to deprive agriculturists in municipalities of the exemption to which they were entitled under the orders of 1871.

In 1880, in the course of an order[×] to the Deputy Commissioner of District observed: "Carriages and coaches in the minor municipalities, where there is no regular system of tax, carriage be taxed as carts."

whether the bearing of this on the then existing practice was realised or not at the time, the effect was obviously to extend still further the operation of the cart-tax. In this view, there seems to have been nothing illegal in the order, which was passed by the Chief Commissioner under the same authority (such as it was) as gave origin and effect to the orders of 1871.

The matter, however, does not seem to have been recognised in this light; and in the attempt to reconcile the order of 1880 with the orders of 1871, various explanatory and somewhat conflicting orders have from time to time been issued, the object of which has been virtually to supersede the order of 1880. The present rule on the subject has been taken to be that all conveyances, whatever their constructive characteristics, are taxable as motor vehicles, provided ~~that~~ they can be described as "cars," and are used for carrying loads. [*] (e.g. whether "horse-drawn carriages" come under "cars"?)

* f. Provis. to. 917(-1/-15)
-1., and 1--23/1. 17 in
-1. 24 -2- 1.

It may be noted that the powers of the Local Authorities have been reserved to the Government in the matter of regulation, which has since been used for consideration.

Subd to Sec 7

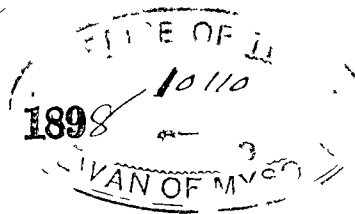
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Further notes as well as Conns
h *h*

recd was sent
Per on 5/3/98 for

Gen. 31.]



April 20/03
P3671

1875792

18/5/98

From

The President of Municipalities
Hassam District.

To

The Secretary to the
Government of Mysore
General and Revenue
Departments

Dated 13th May 1898.

Despatched 14/5.

Received

General No. 1135
No.

Enclosure No. a

Subject:

Requesting to cancel the order
conveyed in Government Pro-
ceedings No 18450-8, dated
27 252-92
1st May 1894 laying down certain
instructions for guidance in
levying cart tax in munici-
palities.

1875792

The file containing references
to 2nd Council on 9.4.98.
was sub^d May this also be
submitted to the 2nd Council
to see.
Submitted for order
18/5/98

Sd/- B. 24/5/98

23 15798
24.5.98.

This matter has
been already
responded of all the
inquiries at the
time was ~~so~~ that
springing conveyances
were not entitled
to be ~~at~~ ~~also~~ ~~empt~~
I adhere to what
said - and as pointed
out there is an order
of Govt of 1880 which
has been cancelled
by the order of the 7th
April 98 - If the order
is disturbed he may
renew this order -
I would recommend
17/5/98

2

N^o/1/35 - President's Office

Hassan District

Dated $\frac{13}{14}$ May 1898.

From,

The President of the

Municipal Boards

Hassan District.

To,

The Secretary to the Government
of Mysore, General and Revenue
Departments, Bangalore, -

Sir,

I beg to invite attention to the following Proceedings of Government laying down certain instructions for guidance in levying cart tax in Municipalities: -

(1) No $\frac{18450-8}{L. 9252-92}$ dated 1st May 1894.

(2) " $\frac{24641-50}{B. 7245-92}$ dated 25th June 1895.

The latter order does not distinguish between carts and "carriages and coaches". The former order was apparently passed without reference to para 5 of Chief Commissioner's

2^d Commissioner's Proceedings No. 6369-76
 Dated 27th February 1880, quoted
 in Revenue Manual, page 177,
 which clearly lays down that
 carriages and coaches in
 minor Municipalities may be
 taxed as carts.

2. - This last quoted order of the
 Chief Commissioner is in my opinion
 equitable as carriages and
 coaches wear out the Municipal
 roads and I beg that the
 order of 1894 may be cancelled.

I have the honor to be,

Sir,
 Your most obedient servant,

M. Ramaswami
 for President of the
 Municipal Board
 Madras District

20
Mr. Pennington 20
for favor of a note of

13-5-89

N^o 146
S

Office of the President
of Municipalities,
Hagan District
Dated. Hagan, 21st August 1899.

From;

The President
of Municipalities
Hagan District

To

The Secretary to the
Government of Mysore,
General and Rev. Darbar:

Sir,

I have the honor to in-
-vite your kind attention to
this office letter no. 1135 Dated 14th
May 1898 on the subject of the
Mohatwafa Carh tax, as the
reference is pending reply. —

2 — The order of Government
N^o 9617-2 Dated 18th April 1898
R. 3137
has been however brought to
force during the Janabundi of 1898.

I have the honor to be,
Sir,

Your most obedient servant,

D. ru narasimha Rao
for President of
Municipalities
Hagan District —

[Signature]

1738
24-8-98
DEWAN OF MYSOR
Fr

The Resident of
Municipalities
To Hoysar District.

The Secretary to the
Government of
General and Residencies

Dated 21st

Despatched 22nd } August 1898

Received

General No. 146
No. S.

Enclosure No. none

Subject

In view of a letter to No.
1135 of the 14th May 1898
on the subject of Moha
- Sura Carh Sax & -

P-7

14. S. 89